

REMARKS

This responds to the Office Action mailed on January 5, 2006, and the references cited therewith.

Claims 14 and 21 are amended, claims 20 and 26-34 are canceled without prejudice or disclaimer, as a result, claims 14-19, 21-25 and 35 are now pending in this application.

§112 Rejection of the Claims

Claim 16 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed. Claim 16 recites that the patient is in relapse following total body irradiation (TBI). This is the “starting point” for the claimed method. Claim 14 simply recites that the patient is not treated with TBI as a part of the claimed method, e.g., steps (a) and (b), which are performed to suppress the patient’s bone marrow. Therefore, it is respectfully submitted that claim 16 would be clear to one of ordinary skill in the art, and withdrawal of the rejection is respectfully requested.

Double Patenting Rejection

Claims 14-25 and 35 were rejected under the judicially created doctrine of double patenting over claims 6, 7, 9, 10 and 12-18 of copending U.S. Patent No. 11/014,828.

Applicant does not concede that the claims are obvious in view of U.S. Patent No. Application No. 11/014,828. However, a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(b)(iv) is enclosed herewith to obviate this rejection.

§103 Rejection of the Claims

Claims 14-16, 18, 19, 23-25 and 35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Turner et al. (WO 91/16075). The amendment of claim 14 to include all the elements of claim 20, and the amendment of claim 21 to depend from claims 14, 15, 16 or 17, moots this rejection.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6903 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

ALAN R. FRITZBERG

By his Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6903

Date 1-20-06

By Warren D. Woessner
Warren D. Woessner
Reg. No. 30,440

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 20 day of January, 2006.

Dawn M. Karpf
Name

Dawn M. Karpf
Signature